

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ORRIN TYLER COLBOURN,

Plaintiff,

v.

CORIE J. CARAWAY,

Defendant.

No. 2:24-cv-2773 SCR P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. §1983. Plaintiff has not, however, filed an in forma pauperis affidavit or paid the required filing fee of \$350.00 plus the \$55.00 administrative fee.¹ See 28 U.S.C. §§1914(a), 1915(a). Plaintiff would ordinarily be provided the opportunity either to submit the appropriate affidavit in support of a request to proceed in forma pauperis or to submit the required fees totaling \$405.00. However, the only defendant in this case is a judge who plaintiff sues for damages for an allegedly unconstitutional sentence imposed earlier this year. In a Section 1983 case for damages, judges are entitled to absolute immunity for actions taken within their jurisdiction. See *Schucker v. Rockwood*, 846 F.2d 1202, 1204 (9th Cir. 1988) (per curiam). If Plaintiff wishes to

¹ If leave to file in forma pauperis is granted, plaintiff will still be required to pay the filing fee but will be allowed to pay it in installments. Litigants proceeding in forma pauperis are not required to pay the \$55.00 administrative fee.

1 challenge his sentence in federal court through a habeas corpus action, he must first exhaust all
2 state court remedies. Plaintiff does not state a Section 1983 claim on which relief can be granted
3 and any amendment would be futile. Plaintiff will accordingly not be ordered to submit an IFP
4 application or pay the required filing fee.

5 In accordance with the above, IT IS HEREBY ORDERED that the Clerk of the Court
6 assign a district court judge to this action.

7 IT IS HEREBY RECOMMENDED that this action be dismissed for failure to state a
8 claim.

9 These findings and recommendations will be submitted to the United States District Judge
10 assigned to the case, pursuant to the provisions of 28 U.S.C. §636(b)(1). Within twenty-one days
11 after being served with these findings and recommendations, plaintiff may file written objections
12 with the court. The document should be captioned "Objections to Magistrate Judge's Findings
13 and Recommendations." Plaintiff is advised that failure to file objections within the specified
14 time may result in waiver of the right to appeal the district court's order. Martinez v. Ylst, 951
15 F.2d 1153 (9th Cir. 1991).

16 DATED: October 25, 2024

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19 SEAN C. RIORDAN
20 UNITED STATES MAGISTRATE JUDGE
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